

Patterson.
Potter.
Sebastian.
Swann.

Turner.
Turney.
Yett.

Senator Potter moved a call of the Senate for the purpose of securing a quorum, which call being duly seconded, the roll was called, the following Senators answering to their names:

Beaty.
Davidson of
DeWitt.
Grinnan.
Potter.
Savage.

Stafford.
Staples.
Wayland.
Wheeler.
Wilson.

Absent.

Davidson of
Galveston.
Dibrell.
Goss.
Hanger.
Harris of Bexar.
Harris of Hunt.
James.
Johnson.
Lipscomb.
Lloyd.

McGee.
Miller.
Neal.
Odell.
Patterson.
Paulus.
Sebastian.
Swann.
Turner.
Turney.
Yett.

Senator Johnson was announced.

Senator Lloyd was announced.

Senator Dibrell was announced.

It being evident that no quorum could be secured, the call of the Senate was withdrawn, and on motion of Senator Savage, the Sergeant-at-Arms was instructed to adopt such means as his judgment advised to secure the attendance of absentees by the next succeeding convening hour.

ADJOURNMENT.

On motion of Senator Wayland, the Senate, at 3:10 o'clock p. m., adjourned until 10 o'clock a. m. tomorrow.

TENTH DAY.

Senate Chamber,
Austin, Tex., Wednesday, Sept. 25, 1901.

The Senate met pursuant to adjournment.

In the absence of the President, the President Pro Tempore and the Secretary of the Senate, the Senate was called to order by Mr. Clyde D. Smith, Assistant Secretary of the Senate.

The roll was called, a quorum being present, the following Senators answering to their names:

Beaty.
Davidson of
DeWitt.
Grinnan.

Hanger.
Harris of Bexar.
Harris of Hunt.
James.

Johnson.
Lipscomb.
Lloyd.
McGee.
Miller.
Patterson.
Paulus.
Potter.
Savage.
Sebastian.

Stafford.
Staples.
Swann.
Turner.
Turney.
Wayland.
Wheeler.
Wilson.
Yett.

Absent.

Davidson of
Galveston.
Dibrell.

Goss.
Neal.
Odell.

The Assistant Secretary announced that under the Constitution in the absence of the President and the President Pro Tempore it devolved upon the Senate to elect a President Pro Tempore ad interim, and declared nominations to be in order.

Senator James placed in nomination the Senator from Cooke (Mr. Potter).

Senator Davidson of DeWitt seconded the nomination of Senator Potter and moved that nominations be closed.

There being no objection nominations were declared closed and Senators Davidson of DeWitt and Stafford were appointed to count the ballot.

The ballot was taken and resulted as follows:

Senator Potter 19 votes.
Senator James 1 vote.
Senator Sebastian 2 votes.

Total 22 votes.

Senator Potter having received a majority of all the votes cast was declared duly and constitutionally elected, and Senators James and Staples were appointed to escort the newly elected President Pro Tempore ad interim to the chair.

This being done

Prayer was offered by the Chaplain, Rev. I. S. Davenport.

Pending the reading of the Journals of last Thursday and yesterday (eighth and ninth days), the same, on motion of Senator James, was dispensed with.

BILLS AND RESOLUTIONS.

Senators Savage and Turner offered the following resolution:

Whereas, The contingent fund of the Regular Session is exhausted, rendering it impossible to comply with the terms of a resolution adopted by the Senate, to the effect that the expenses of a committee appointed by the President of this body for the purpose of receiving President McKinley on his visit to the State capital; therefore, be it

Resolved, That \$100 is hereby appropriated out of the contingent fund of the present session for purpose above named.

The resolution was read second time, and adopted.

The President Pro Tempore (ad interim) declared the morning call concluded.

FIRST EXECUTIVE MESSAGE.

The following first executive message was here delivered to and laid before the Senate:

EXECUTIVE OFFICE,
STATE OF TEXAS.
AUSTIN.

To the Legislature:

Senate Concurrent Resolution No. 3, entitled "concurrent resolution to provide for the appointment of a joint committee to investigate the various departments of the State government during vacation, and to report to the Governor and the next Legislature such data as may be gathered by them," is herewith returned, without approval.

The resolution provides for the appointment of a committee, to consist of four Senators and five Representatives, with authority to employ a stenographer; to send for persons and papers, administer oaths and compel the attendance of witnesses; and to impose penalties upon persons disobeying its orders and commands—the character and extent of the penalties to be imposed being undefined and entirely left to the discretion of the committee, and in this, an unprecedented and unconstitutional authority is attempted to be conferred. The committee is not limited as to the duration of its sittings and under the resolution, if it should so choose, it may continue them, without intermission, from the adjournment of the present until the election of the members of the next Legislature; that is, until the general election in November, 1902. It is further provided that the compensation of the members shall be the same as that allowed the members of the Legislature, and also that they shall be reimbursed for all railroad fare, when actually paid, but no provision is made for the payment of fees for summoning witnesses nor for their attendance when summoned, nor how and by whom the process of the committee shall be executed.

The resolution, if I be correctly informed, passed both branches of the Legislature at a single reading in each body, without reference to a committee and without suspension of the rule requiring it to be read on three several days.

It is difficult to estimate the cost that

might result to the State under the resolution were it possible to be effective, and it is believed that everything sought to be accomplished thereunder can be as well attained by a smaller committee and with time for investigation and report limited to ninety or one hundred and twenty days of actual service.

If the magnitude of the appropriation bills now pending before the Legislature and the appropriations heretofore made and not expended, but still subject to expenditure, may be properly taken into consideration when providing for additional expenses, it would be well to bear in mind that the resources of the treasury will not be able to meet all of the demands thus made and to be made upon them, and no effort should be spared looking to the exercise of the strictest economy consistent with proper efficiency.

The attention of the Legislature is also invited to the character of the report which the committee is directed to make, and in this respect it is justly subject to criticism. It will be observed that only its "findings, recommendations and conclusions" are to be reported. Whether intentionally or otherwise, the committee is not required to report the facts upon which such "findings, recommendations and conclusions" may be based. Without such facts the report would be valueless for any purpose whatsoever, except, perhaps, to cast a cloud upon the reputations of those whose administrations may have been investigated.

It may be asserted as universally true that no investigating committee has ever been endowed with such functions. The proceedings of the Legislatures of our own State will, upon examination, disclose the fact that whenever an investigation has been ordered as in the present instance, the evidence taken has accompanied the "findings, recommendations and conclusions" predicated thereon.

No honest official can or will object to the most thorough and critical examination at any time into his administration, provided such examination be conducted in an open manner and a hearing be accorded him when assailed and all the facts elicited, as well those in his favor as those against him, be reported, so that an intelligent and impartial public may be able to reach a just conclusion as to his guilt or innocence.

To be productive of the best and quickest results possible, it may also be said, in the interest of the public service, that a committee of the character and for the purpose contemplated in the resolution should be required to immediately report to the Executive any abuses whenever

discovered—to the end that their correction may be made without unnecessary delay. The Executive stands pledged to the speedy remedy of every abuse when brought to his attention, so far as can be done within the limits of his authority.

But a most serious and fatal objection to the resolution arises from the manner in which it was passed and raises a well founded doubt whether the same would be effective if approved by the Executive. The matter sought to be covered by the resolution has not been submitted to the Legislature for its consideration, and, under the Constitution, legislation at a called session is limited to those subjects which the Executive may designate.

The opinion of the Attorney General, with which I entirely agree, is herewith submitted and made a part of this communication. In my judgment, it clearly shows that if the committee, which is sought to be provided for by the resolution under consideration, should be approved, it would be entirely without authority, and that no good could possibly result from its labors.

JOSEPH D. SAYERS,
Governor.

ATTORNEY GENERAL'S DEPARTMENT,
STATE OF TEXAS.

Austin, September 23, 1901.

Hon. Joseph D. Sayers, Governor, Executive Office.

DEAR SIR: I am in receipt of your communication of the 21st inst., enclosing a copy of Senate Concurrent Resolution No. 3, "To provide for the appointment of a committee to investigate the various departments of the State government during vacation and report to the Governor and the next Legislature such data as may be gathered by them," and also a copy of your proclamation calling the present Legislature to meet in special session on Thursday, September 5, 1901, for the following purpose, to wit: To make appropriations for the support of the State government and for the public service for the fiscal years beginning September 1, 1901, and ending August 31, 1903, and a copy of your message to the Legislature, submitting for the consideration of the Legislature the matter of making appropriations for the support of the State government and for the public service for the fiscal years beginning September 1, 1901, and ending August 31, 1903, and requesting the legal advice in writing of the Attorney General as to whether or not the resolution enclosed, if approved by you, would be effective; and, if so, whether the resolution is of such a character as to require either that it be read in each house on

three several days or else that the rule requiring measures to be so read, be suspended.

A proper answer to your first inquiry involves a correct determination of two separate and distinct propositions.

First. Could the object desired by the Legislature be accomplished by the passage of a resolution with the concurrence of both houses, and the approval of the Governor, or must the measure have been enacted in the usual form of a law?

In Cushing's Law and Practice of Legislative Assemblies, page 930, the following language is found:

"A form of legislation which is in frequent use in this country, chiefly for administrative purposes, or of a local or temporary character, sometimes for private purposes only, is variously known in legislative assemblies as a joint resolution, a resolution or a resolve.

"This form of legislation is recognized in most of our constitutions, in which, and in the rules and orders of our legislative bodies it is put on the same footing and subject to the same regulations as bills, properly so called."

In the case of *The State vs. Delesdennier*, 7th Texas, page 75, the Supreme Court of this State passed upon the identical question now under consideration. The Attorney General was proceeding under a resolution passed by the Legislature in February, 1848. The contention was made that the resolution was obnoxious to Sec. 3, Art. IV, of the Constitution, which declares that the style of all laws shall be "Be it enacted" and it was urged by the appellee in that case that the legislation was inoperative for want of this enacting clause.

After citing many authorities, the Supreme Court held that the resolution was not void for want of the enacting clause, but that it was a public statute, of which the court was bound to take judicial notice.

In the case of *Swan vs. Buck*, 40th Miss., page 268, the Supreme Court of Mississippi passed upon the point now under consideration. The contention there was that the resolution, the validity of which was assailed, was void for want of the enacting clause, in the language prescribed by the Constitution. I quote from the decision:

"1. The first question is whether or not the resolution is void for want of a sufficient enacting clause, and this involves another question, to wit, whether the Legislature has the constitutional power to pass a joint resolution at all to have the force and effect of a law.

"By the fourth section of the third article of the Constitution the legislative

power of the State is vested in two branches, which constitute the Legislature, and it is ordained that the style of their laws shall be 'Be it enacted by the Legislature of the State of Mississippi.' As the style of this resolution is 'Resolved by the Legislature of the State of Mississippi,' if a literal adherence to the formula prescribed by the Constitution is required, it would follow that the resolution is wholly void."

After stating the proposition to be solved, and after citing authorities, the court expresses its conclusions in the following language:

"The resolution may or may not take effect as a law, depending upon the occasion and object of its use. It may be resorted to as a vehicle to convey the opinions or wishes of the Legislature on any subject, without prescribing any rule of conduct to be observed. But whenever a joint resolution does undertake to lay down a rule of conduct for any portion of the people of the State, it becomes a law and will take effect as such notwithstanding the use of the word 'Resolved' in its style, instead of the word 'Enacted.' The requirement of the Constitution is thereby substantially complied with, and the will of the Legislature sufficiently declared. * * * Though generally, but not universally, confined to administrative and local and temporary matters, they form, nevertheless, one of the known and recognized modes of legislation."

Similar decisions have been rendered by the Supreme Court of various States, but I deem it unnecessary to cite additional authorities upon this proposition.

Legislation by resolution has often been resorted to in this State.

The Fifteenth Legislature provided by resolution, which was approved by Governor Roberts, for the appointment of a committee to sit during the vacation of the Legislature to investigate land forgeries.

The same Legislature, by resolution, appropriated the sum of \$30,000 to pay interest due on the bonded debt of the State of Texas, and the money was used for that purpose. No one ever doubted the legality of this legislation, though Sec. 6, Art. VIII, of the Constitution, provides that no money shall be drawn from the treasury but in pursuance of specific appropriations made by law.

The present Legislature, at its Regular Session, by Senate Concurrent Resolution No. 12, authorized the making of a contract by the Printing Board for the exchange of books of the value of many thousands of dollars, and for the making of a contract for publishing the Court Reports.

It also, by House Concurrent Resolution No. 16, passed a law instructing the Comptroller to refuse to deliver any pension or warrant for the same to any person other than the original pensioner.

In view of the authorities and decisions quoted, and the precedents referred to, I do not think there can be any doubt but that the desire of the Legislature, as evidenced by the passage of the resolution, could be accomplished as well by means of a resolution as by any other form of a statute.

Second. Assuming then that it was within the power of the Legislature to accomplish their object by the passage of a resolution, the question arises as to whether the resolution has been acted upon by the Legislature in such a manner as to make it effective.

Section 40, of Art. III, of the Constitution, is as follows:

"When the Legislature shall be convened in special session there shall be no legislation upon subjects other than those designated in the proclamation of the Governor calling such session, or presented to them by the Governor."

Where the Constitution provides that when convened in extra session the Legislature shall consider no subject except that for which they were specially called together, or which may have been submitted to them by a special message of the Governor, it is without the power of the Legislature to legislate upon any subjects except those embraced in the call or submitted to their consideration by the Governor. Cooley's Constitutional Limitations, p. 187.

The language quoted is a limitation upon the right of legislation only, and it is, therefore, necessary to determine whether the resolution attempts legislation or not.

If, as stated above, the resolution is a mere vehicle to convey the wishes or opinions of the Legislature on the subject to which it relates without prescribing any rule of conduct to be observed, or making any change in existing law, it does not constitute legislation, for nothing becomes law simply and solely because men who possess the legislative power will that it shall be, unless they express their determination to that effect in the mode pointed out in the instrument which invests them with the power, and under the forms which that instrument has rendered essential, but if it is proposed by the resolution to confer powers and impose obligations upon any person which would not have existed but for the resolution, then the resolution, if properly adopted and approved, constitutes legislation.

The second section of the resolution

provides that the committee may administer oaths. Without the aid of the resolution the committee would not have authority to do so, and if it should attempt to administer an oath, the person to whom it was pretended to be administered could not be punished for perjury or false swearing though he should make the most flagrantly false statement. *Stewart vs. The State*, 6 Cr. App., 184.

If one should refuse to produce books and papers for the examination of the committee, or should refuse to obey its summons, there would be no power on the part of the committee, in the absence of legislation, to punish such person for contempt.

Without the aid of the legislation provided for by the resolution there would be no law under which the committee could receive compensation for their services.

I think, therefore, there can be no question but what the changes in existing law which are undertaken to be made by the resolution, would constitute legislation, and, if so, such legislation could be had at a called session of the Legislature only when the proclamation of the Governor calling such session designated the matters attempted to be legislated upon as a subject for legislation, or when they were presented to the Legislature by the Governor.

The correctness of the conclusion announced can be demonstrated by stating an imaginary, though improbable, case. Suppose all the members of the Legislature had concluded that it was necessary that the sheriffs should have power to administer oaths, but the Governor had not, and would not, designate that matter as a subject for the attention of the Legislature at the present called session. All will doubtless agree that they could not now pass a law in the usual form conferring such authority, and I presume that no one would claim that they could do so by passing over the Governor's veto, a resolution which would have that effect.

It remains then to be determined whether the matters upon which legislation is proposed by the resolution are designated in the call of the Governor convening the extra session, or have been presented to them by the Governor.

Undoubtedly under the proclamation convening the Legislature in extra session for the purpose of making appropriations for the years beginning September 1, 1901, and ending August 31, 1903, the Legislature would be authorized to pass any resolution which they might deem necessary for the purpose of enabling them to acquire any informa-

tion desired for the purpose of enabling them to determine what appropriations should be made for the period named, but it will be observed that the resolution now being considered does not purport to provide for the acquiring of such information. It provides, on the contrary, for a report to the next Legislature of such data as may be gathered by the committee, and is not, therefore, in any way germane to the consideration of the bills under which appropriations are now proposed to be made.

It is, therefore, my opinion that if the resolution should be approved by yourself, it would be entirely ineffective; that the committee appointed under it would have no authority and could not receive any compensation for their services.

In answer to your second inquiry, I quote from the Digest and Manual of Rules and Practice of the House of Representatives of the United States, page 535:

"A joint resolution, like a bill, must have three readings before it is passed to become operative."

I also refer to the action of our own Legislature as showing the practice on this subject.

In 1879, the resolution was passed, to which reference has already been made, authorizing the appointment of a committee to sit during the vacation of the Legislature for the investigation of land forgeries. The rule requiring resolutions to be read on three several days was suspended in the Senate, and it was read three times and passed. *Senate Journal Sixteenth Legislature*, p. 995.

In the House the resolution was read on three several days. *House Journal Sixteenth Legislature*, pp. 1358 and 1367.

At the recent called session of the present Legislature, the resolution constituting the Governor, Comptroller and Attorney General a board and authorizing the board to make and enter into an agreement to secure the return to the proper officials of the money in the custody of the First National Bank of Austin, was read on three several days in the House and was passed under a suspension of the rule requiring such readings in the Senate.

Many other precedents might be cited, but certainly these are sufficient.

It cannot be presumed that the Legislature, in the formal language of the law writers, would do a vain thing, and unless it was necessary that resolutions which are to have the effect of law should be passed with the same formalities as other laws, it cannot be that members of the Legislature would go

through the idle formality of so adopting them.

Very respectfully,
C. K. BELL,
Attorney General.

SECOND EXECUTIVE MESSAGE.

The following second executive message was here delivered to and laid before the Senate:

EXECUTIVE OFFICE,
STATE OF TEXAS,
AUSTIN.

To the Legislature:

I hereby present to the Legislature for its consideration, the desirability of providing for the appointment of a committee to investigate into the administration of each and every department of the government and of the public service in all its branches and of every institution that is in whole or in part supported and maintained from the general revenue, said committee to be clothed with the authority necessary to render it effective.

JOSEPH D. SAYERS,
Governor.

BILLS AND RESOLUTIONS.

By unanimous consent, the following was introduced:

By Senators Dibrell, Savage and Turner:

Senate Joint Resolution No. 1, to provide for the appointment of a joint committee to investigate the various departments of the State government during vacation, and to report to the Governor, and to the next Legislature such data as may be gathered by them, and to make such recommendations as they see proper.

Read first time, and referred to Committee on Finance.

INTERNATIONAL FAIR—INVITATION TO ATTEND.

The President Pro Tempore (ad interim) laid the following before the Senate:

(Copy.)

San Antonio, Tex., Sept. 20, 1901.

Hon. J. L. Little, House of Representatives, Austin Texas:

The International Fair Association, San Antonio, requests you to extend to the House and Senate membership an earnest invitation to visit our fair and exposition as our guests on Wednesday, October 23, said day being Governor's

Day, Confederate Day, Terry Texas Rangers' Day, and I. & G. N. Day.

VORIES P. BROWN,
President Fair Association.

On motion of Senator Davidson of DeWitt, the invitation was accepted.

RECESS.

On motion of Senator Davidson of DeWitt, the Senate here recessed until 11:30 o'clock a. m.

AFTER RECESS.

Senators Davidson of Galveston, Dibrell and Goss were announced and marked present.

COMMITTEE REPORT.

By unanimous consent, the following committee report was made to the Senate:

Committee Room,

Austin, Texas, September 25, 1901.

Hon. J. N. Browning, President of the Senate.

SIR: Your Committee on Finance, to whom was referred

Senate Joint Resolution No. 1, to provide for the appointment of a joint committee to investigate the various departments of the State government during vacation and report to the Governor at the next Legislature such data as may be gathered by them, and to make such recommendations as they see proper,

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it *do* pass, with the accompanying amendments, and that the same be not printed.

WILSON, Acting Chairman.

COMMITTEE AMENDMENTS TO SENATE JOINT RESOLUTION NO. 1.

"Amend by adding to the resolution the following:

"Sec. 6. All witnesses appearing before said committee, or any section thereof, shall be entitled and shall receive for such attendance and service the fees and per diem provided by law for witnesses in felony cases, and their account for such service approved by chairman of said committee shall be sufficient authority for the Comptroller to issue his warrant therefor.

"Sec. 7. That the sum of ten thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any monies which may be in the treasury not otherwise appropriated for the

purposes of carrying out the provisions of this resolution.

"Sec. 8. Said committee shall have authority to select a person when needed to act in summoning witnesses and to execute all processes, and such person so chosen shall have the same authority as given peace officers, and he shall receive the same compensation as is now allowed sheriffs in the performance of similar duties."

"Amend Section 2 by adding after the word 'granted' the following: 'Provided, that said committee shall have the power and authority to punish for contempt any person who fails to attend its sessions after summons duly served or to answer questions after their appearance, and the authority of such committee to punish shall be the same as now given by law to district judges in this State.'"

SENATE JOINT RESOLUTION NO. 1
—ON SECOND AND THIRD
READINGS.

On motion of Senator Savage, the Senate rule governing committee reports was suspended for the purpose of considering Senate Joint Resolution No. 1, reported this day from committee.

On motion of Senator Savage, the constitutional rule requiring bills and joint resolutions to be read on three several days was suspended, and the joint resolution was put on its second reading by the following vote:

Yeas—26.

Beaty.	Miller.
Davidson of	Patterson.
DeWitt.	Paulus.
Davidson of	Potter.
Galveston.	Savage.
Goss.	Sebastian.
Grinnan.	Staples.
Hanger.	Swann.
Harris of Hunt.	Turner.
James.	Turney.
Johnson.	Wayland.
Lipscomb.	Wheeler.
Lloyd.	Wilson.
McGee.	Yett.

Absent.

Dibrell.	Odell.
Harris of Bexar.	Stafford.
Neal.	

The President Pro Tempore (ad interim) laid before the Senate caption above).

Senate Joint Resolution No. 1 (see The joint resolution was read second time, and the committee amendments were adopted.

Senator Savage offered the following amendment:

"Amend by striking out in Section 3 the following words 'which said sums shall be paid from the contingent expense fund of the two houses.'"

The amendment was read, and adopted.

Senator Goss offered the following amendment:

"Amend Section 1 by striking out all of said section after the word 'results.'"

The amendment was read, and

Senator Hanger offered the following substitute for the amendment:

"Amend Senate Joint Resolution No. 1 by striking out all of Section 1 after the word 'institutions' where it last occurs in said section.'"

The substitute for the amendment was read, and adopted, and

The amendment as substituted was read, and adopted.

Senator Savage offered the following amendment:

"Amend Senate Joint Resolution No. 1 by striking out the word 'traveling' before the word 'expenses,' and after the word 'such,' in Section 3, and insert in lieu thereof the word 'necessary.'"

The amendment was read, and adopted.

Senator Sebastian offered the following amendment:

"Add after the word 'section' at the end of the last line in Section 2 the following: 'Each of whom shall be an expert stenographer and typewriter.'"

The amendment was read, and adopted.

The joint resolution was ordered engrossed.

On motion of Senator Goss, the vote by which the joint resolution was ordered engrossed was reconsidered, and

The President Pro Tempore (ad interim) laid the joint resolution before the Senate, pending on its second reading, and

Senator Turner offered the following amendment:

"Amend by adding to the caption the following: 'And to make an appropriation to defray the expenses of such committee.'"

The amendment was read, and adopted.

The joint resolution was ordered engrossed.

On motion of Senator Turney, the constitutional rule requiring bills and joint resolutions to be read on three several days was suspended and the joint resolution put on its third reading and final passage by the following vote:

Yeas—28.

Beaty.	Dibrell.
Davidson of	Goss.
DeWitt.	Grinnan.
Davidson of	Hanger.
Galveston.	Harris of Bexar.

Harris of Hunt.	Sebastian.
James.	Stafford.
Johnson.	Staples.
Lipscomb.	Swann.
Lloyd.	Turner.
McGee.	Turney.
Patterson.	Wayland.
Paulus.	Wheeler.
Potter.	Wilson.
Savage.	Yett.

Absent.

Miller.	Odell.
Neal.	

The joint resolution was read third time, and passed by the following vote:

Yeas—28.

Beaty.	McGee.
Davidson of	Patterson.
DeWitt.	Paulus.
Davidson of	Potter.
Galveston.	Savage.
Dibrell.	Sebastian.
Goss.	Stafford.
Grinnan.	Staples.
Hanger.	Swann.
Harris of Bexar.	Turner.
Harris of Hunt.	Turney.
James.	Wayland.
Johnson.	Wheeler.
Lipscomb.	Wilson.
Lloyd.	Yett.

Absent.

Miller.	Odell.
Neal.	

Senator Turney moved to reconsider the vote by which the joint resolution was passed, and lay that motion on the table.

The motion to table prevailed.

RECESS.

On motion of enator, Turner, the Senate recessed until 3 o'clock p. m.

AFTER RECESS.

THIRD EXECUTIVE MESSAGE.

The following third executive message was here delivered to and laid before the Senate:

EXECUTIVE OFFICE,
STATE OF TEXAS.
AUSTIN.

To the Senate:

The advice and consent of the Senate is asked to the withdrawal of the name of O. M. Stone, heretofore nominated for Pilot Commissioner for the Port of Sabine Pass, Texas, and the appointment of J. R. Adams in his stead.

JOSEPH D. SAYERS,
Governor.

EXECUTIVE SESSION—TIME SET FOR.

On motion of Senator Savage, the hour of 11 o'clock a. m. tomorrow was the time set for the Senate to go into executive session for the purpose of acting upon pending nominations from the Governor.

COMMITTEE REPORT.

The following committee report was made to the Senate:

Committee Room,

Austin, Texas, September 25, 1901.

Hon. J. N. Browning, President of the Senate.

SIR: Your Committee on Engrossed Bills have carefully examined and compared

Senate Joint Resolution No. 1, being a joint resolution to provide for the appointment of a joint committee to investigate the various departments of the State government during vacation and to report to the Governor and the next Legislature such data as may be gathered by them, and to make such recommendations as they see proper, and to make an appropriation to defray the expenses of such committee,

And find the same correctly engrossed.

BEATY, Chairman.

MOTIONS TO ADJOURN LOST.

Senator Davidson of DeWitt moved that the Senate adjourn until 9 o'clock a. m. tomorrow, and

Senator Lloyd moved that the Senate adjourn until 10 o'clock a. m. tomorrow.

Action recurring on the longest time first, the motion of Senator Lloyd was lost.

Action recurring on the motion of Senator Davidson of DeWitt to adjourn until 9 o'clock a. m. tomorrow, the same was lost.

Senator Miller moved to adjourn until 9:30 o'clock a. m. tomorrow, and the same was lost.

REMOVAL OF THE PRAIRIE VIEW NORMAL DEPOT—RESOLUTION REQUESTING.

By unanimous consent, Senators Paulus, Sebastian, Davidson of Galveston, Staples, McGee, Wheeler, Savage and Beaty offered the following resolution:

Whereas, The Prairie View State Normal and Industrial College is a State institution, supported largely out of the general revenue; and,

Whereas, On account of the fact that the depot of the Houston and Texas Central Railroad is inconveniently located

for said place, thus necessitating additional expense on the part of the taxpayers of the State, be it

Resolved, That the Houston and Texas Central Railroad Company is requested to remove its depot and place same at the place where the public road crosses the railroad at a point immediately in front of the school buildings, and that a copy of this resolution be furnished the manager of said railroad company.

The resolution was read second time.

MOTION TO ADJOURN LOST.

Senator Miller moved that the Senate adjourn until 9 o'clock a. m. tomorrow. The motion was lost.

"DEPOT" RESOLUTION AMENDED AND PASSED.

Pending action on the resolution by Senators Paulus and others,

Senator Hanger offered the following amendment:

"Amend the resolution by striking out all after the word 'resolved' and insert in lieu thereof the following: 'That the Railroad Commission be requested to take up the question of removing said depot to a convenient point on said Houston and Texas Central Railway, and to take such action as to said Commission may seem just and proper.'"

The amendment was read, and adopted.

The resolution as amended was read, and adopted by the following vote:

Yeas—12.

Davidson of	Savage.
Galveston.	Sebastian.
Goss.	Staples.
Lipscomb.	Swann.
Lloyd.	Wheeler.
McGee.	Wilson.
Paulus.	

Nays—7.

Beaty.	Miller.
Grinnan.	Potter.
Hanger.	Turney.
Harris of Bexar.	

Present—Not voting.

Davidson of	Wayland.
DeWitt.	

Absent.

Dibrell.	Odell.
Harris of Hunt.	Patterson.
James.	Stafford.
Johnson.	Turner.
Neal.	Yett.

ADJOURNMENT.

On motion of Senator Miller, the Senate, at 3:50 o'clock p. m., adjourned until 9:30 o'clock a. m. tomorrow.

ELEVENTH DAY.

Senate Chamber,

Austin, Tex., Thursday, Sept. 26, 1901.

The Senate met pursuant to adjournment.

President Pro Tempore (ad interim) in the chair.

The roll was called, a quorum being present, the following Senators answering to their names:

Beaty.	Miller.
Davidson of	Patterson.
DeWitt.	Potter.
Davidson of	Savage.
Galveston.	Sebastian.
Goss.	Stafford.
Grinnan.	Staples.
Hanger.	Swann.
Harris of Bexar.	Turner.
James.	Turney.
Johnson.	Wayland.
Lipscomb.	Wheeler.
Lloyd.	Wilson.
McGee.	

Absent.

Dibrell.	Odell.
Harris of Hunt.	Paulus.
Neal.	Yett.

Prayer by the Chaplain, Rev. I. S. Davenport.

Pending the reading of the Journal of yesterday (tenth day), the same, on motion of Senator McGee, was dispensed with.

PETITIONS AND MEMORIALS.

The President Pro Tempore (ad interim) laid before the Senate, and had read, the following petition:

Galveston, September 25, 1901.

To the Honorables, Senators and Representatives of the Legislature of the State of Texas.

GENTLEMEN: We, the undersigned students of the Medical Department of the University of Texas, do respectfully petition your honorable body to reconsider the action taken yesterday in regard to the appropriation for the Medical school. In view of the growth of the school the amount as appropriated (\$35,000) will be insufficient for its maintenance upon the same standard as heretofore; and we ask you, relying upon your liberality and sense of justice, to give the institution the amount asked for by the Regents (\$45,000), or as near that amount as possible, this amount as stated being the lowest estimate of the actual running expenses of the school.

The undersigned represent the students at this date returned to the college,